

Department of the Navy, DoD

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where creation of a record, programming, or particular format are questionable, naval activities should apply a standard of reasonableness (i.e., if the capability exists to respond to a request, and the effort would be a "business as usual" approach, then the request should be processed; however, the request need not be processed when the capability to respond does not exist without a significant expenditure of resources, thus not being a normal "business as usual" approach). In such instances, the requester is advised that no record exists and the FOIA does not require agencies to create or compile a record to satisfy a FOIA request.

(g) *Reasonably segregable information.* FOIA requires that all "reasonably segregable" information must be released when the meaning of these portions is not distorted by deletion of the denied portions, and when it reasonably can be assumed that a skillful and knowledgeable person could not reasonably reconstruct the excised information. When a record is denied in whole, the response to the requester will specifically state that it is not reasonable to segregate portions of the record for release.

(h) *Special mail services.* Naval activities are authorized to use registered mail, certified mail, certificates of mailing, and return receipts. However, this use should be limited to instances where it appears advisable to establish proof of dispatch or receipt of FOIA correspondence.

(i) *Authentication of records released under FOIA.* In addition to the requirements of FOIA, records provided under FOIA shall be authenticated when necessary to fulfill an official governmental or other legal function. Authentication will be made with an appropriate seal. This service is not included in the FOIA fee schedule and naval activities may charge \$5.20 for each authentication.

§ 701.5 Responsibility and authority.

(a) *Chief of Naval Operations (CNO).* CNO is designated as the official responsible for administering and supervising the execution of 5 U.S.C. 552 and Department of Defense Directives 5400.7 and 5400.7-R series, Department of Defense Freedom of Information Act

Program (see 32 CFR part 286). CNO has designated the Assistant Vice Chief of Naval Operations (N09B30) as principal Department of the Navy FOIA Coordinator to:

(1) Set Department of the Navy policy on the provisions of the FOIA.

(2) Serve as principal advisor on all FOIA matters.

(3) Oversee the administration of the FOIA program, which includes preparing the Department of the Navy Annual FOIA Report for submission to Congress.

(4) Develop a Navy-wide FOIA training program and serve as training-over-sight manager.

(5) Conduct staff assistance visits within the Department of the Navy to review compliance with 5 U.S.C. 552 and subparts A, B, C, and D of this part.

(6) Set Department of the Navy policy on the marking, handling, safeguarding and transmission of documents marked "For Official Use Only."

(b) *Commandant of the Marine Corps (CMC).* CMC is responsible for administering and supervising the execution of this instruction within the Marine Corps. The Commandant has designated the Director of Administration and Resource Management (Code AR) as the FOIA Coordinator for Headquarters, U.S. Marine Corps.

(c) *FOIA coordinator.* Each addressee is responsible for implementing and administering a FOIA program under this instruction. Each addressee shall designate a FOIA Coordinator to:

(1) Serve as principal point of contact on FOIA matters.

(2) Provide training for activity/command personnel on the provisions of 5 U.S.C. 552 and subparts A, B, C, and D of this part.

(3) Issue an implementing instruction which designates the activity's FOIA Coordinator and Initial Denial Authority(ies), provides guidance on the marking, handling, and safeguarding of documents marked FOUO, FOIA records disposition, and FOIA processing procedures.

(4) Review internal directives, practices, and procedures, including those for forms and records, for conformity with this instruction, when applicable.

(5) Compile input and submit consolidated Annual FOIA Report to Echelon 2 FOIA Coordinator, who, in turn, will provide consolidated report to CNO (N09B30).

(6) Review activity conformance with the marking, handling, transporting, and safeguarding of FOUO information.

(7) Provide guidance on handling FOIA requests and the scope of the FOIA exemptions.

(8) Review subpart C of this part and provide CNO (N09B30) with updated information, as appropriate.

(9) Conduct staff assistance visits within command and lower echelon commands to ensure compliance with FOIA.

(10) Echelon 2 FOIA Coordinators shall provide CNO (N09B30) with a complete listing of all FOIA Coordinators under their jurisdiction. Such information should include activity name and address, office code, name of FOIA Coordinator, and commercial and autovon telephone numbers.

(d) *Release Authorities.* (1) The role of the release authority is to respond to requests for documents under his/her cognizance for which no FOIA exemption applies. Release authorities are commanding officers and heads of all Navy and Marine Corps activities (departmental and field).

(2) Release authorities are required to coordinate with officials having cognizance over the subject matter of the requested record, if there is a question as to its releasability. However, if it is determined that a requested record requires withholding, in whole or in part, the release authority must refer the documents along with recommendations regarding release to the initial denial authority (IDA) in the chain of command. If geographically isolated, the release authority may forward the request to another IDA, if so authorized by the IDA in the chain of command.

(3) For records which are part of the Navy's Privacy Act (PA) systems of records, the record custodian specified in the systems notice is the appropriate authority to respond to the request.

(e) *Initial Denial Authorities (IDAs).* (1) The IDA role is to deny and grant requests, either in whole or in part, for

documents or records under his or her cognizance; to grant one 10-working day formal extension to the time limit for responding to FOIA requests; and to deny requests to waive or reduce FOIA fees when the information sought relates to matters within their respective geographical areas of responsibility or chain of command.

(2) Within the Department of the Navy, the following chief officials, their respective vice commanders, deputies, and their principal assistants are designated as IDAs.

(i) Department of the Navy: Civilian Executive Assistants; CNO; CMC; Chief of Naval Personnel; Commanders of the Naval Systems Commands, Office of Naval Intelligence, Naval Security Group Command, and Naval Computer and Telecommunications Command; Chief, Bureau of Medicine and Surgery; Auditor General of the Navy; Naval Inspector General; Director, Office of Civilian Personnel Management; Chief of Naval Education and Training; Commander, Naval Reserve Force; Chief of Naval Research; Commander, Naval Meteorology and Oceanography Command; heads of DON Staff Offices, Boards, and Councils; Flag Officers. NJAG and his Deputy, and the OGC and his Deputies, are excluded from this grant of authorization. While the NJAG and OGC are not Initial Denial Authorities, they are authorized to further delegate the authority conferred here to other senior officers/officials within NJAG and OGC.

(ii) Initial Denial Authorities may choose to delegate initial denial authority to those major activities under their control that receive voluminous requests. Such action is discretionary and should be limited.

(iii) For the shore establishment:

(A) All officers authorized under Article 22, Uniform Code of Military Justice (UCMJ), or designated in section 0120, Manual of the Judge Advocate General, to convene general courts-martial.

(B) Director, Naval Criminal Investigative Service and Deputy Commander, Naval Legal Service Command.

(iv) In the Operating Forces: All officers authorized by Article 22, UCMJ, or designated in section 0120, Manual of

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the Judge Advocate General (JAGINST 5800.7C), to convene general courts-martial.

[56 FR 66574, Dec. 24, 1991, as amended at 59 FR 29721, June 9, 1994]

§ 701.6 Format and procedures for requesting information under FOIA.

(a) *Minimum requirements.* In an effort to eliminate any unnecessary burdens on members of the public, the Department of the Navy does not require requesters to complete a specific form to file a FOIA request. A request can be written or typed, but at a minimum should:

(1) Be in writing and indicate expressly, or clearly imply, that it is a request under 5 U.S.C. 552, Department of Defense Directives 5400.7 and 5400.7-R, Department of Defense Freedom of Information Act Program (see 32 CFR part 286), or subparts A, B, C, and D of this part. Verbal requests are not honored.

(2) Contain a reasonable description of the particular record(s) requested to enable naval personnel to locate or identify the particular record(s) desired with a reasonable amount of effort.

(3) Contain a clear statement of the requester's willingness to pay all fees or those up to a specified amount if the fees are expected to exceed the minimum fee waiver threshold, or provide satisfactory evidence that he or she is entitled to a waiver or reduction of such fees.

(b) *Identification of addressees.* To expedite processing of requests, requesters should submit written requests directly to the naval activity having cognizance over the records and clearly show all addressees within the Department of the Navy, Department of Defense, or other Federal agency to whom that or a similar request was also sent. That procedure will reduce processing time requirements and ensure better inter and intra-agency coordination. Naval activities are under no obligation to establish procedures to receive hand delivered requests.

(c) *Reasonably describe the record(s) being sought.* Identification of the record being sought is the responsibility of the requester. The requester must provide a description of the docu-

ment that enables the Government to locate the record with a reasonable amount of effort. FOIA does not authorize "fishing expeditions." If a request does not contain a reasonable description, the naval activity shall advise the requester of the defect and when possible assist the requester in reframing the request. Naval activities are not obligated to act on the request until the requester responds with more specificity. When practical, naval activities shall assist the requester in identifying the records sought and in reformulating the request to reduce the burden on the agency in complying with FOIA.

(1) The following guidelines are provided for "fishing expedition" requests and are based on the principle of reasonable effort. Descriptive information about a record may be divided into two broad categories—file related and event related. File related includes information on the type of record (e.g., memorandum, letter, etc.), title, index citation, subject area, date the record was created, and originator. Event related includes the circumstances resulting in the record's creation or date and circumstances surrounding the event the record covers.

(2) Generally, a record is reasonably described when the description contains sufficient file related information to permit an organized non-random search of the activity's filing arrangements and existing retrieval systems, or when the record contains sufficient event related information needed to conduct such a search.

(3) The following guidelines deal with requests for personal records. Ordinarily, when personal identifiers are provided only in connection with a request for records concerning the requester, only records retrievable by personal identifiers need be searched. Search for such records may be conducted under PA procedures (see subpart F of this part). No record may be denied that is releasable under FOIA.

(4) The previous guidelines notwithstanding, the decision of a naval activity concerning reasonableness of description must be based on knowledge of its files. If the description enables naval personnel to locate the record with reasonable effort, the description